

Serial No. 10/795,944
Reply dated October 29, 2004
Reply to Communication dated September 30, 2004

REMARKS

This paper is filed in response to the Office Action dated July 9, 2004 and the Communication dated September 30, 2004. As this paper is filed on October 29, 2004, the paper is timely filed.

I. Status of Amendments

As reflected in the Amendment of August 20, 2004, claims 1-13 had been previously cancelled, and claims 14-26 had been previously added. In the August 20 Amendment, claims 14-26 were amended, and claims 27-29 were added. The claims of the August 20 Amendment have been reproduced herein to reflect that claims 14-26 were amended in the August 20 Amendment and that certain claims were amended again herein.

II. Response to the September 30 Communication

The applicants respond to the September 30 Communication, and consequently the July 9 Office Action, as follows.

A. The Section 112 Rejections

In the August 20 Amendment, the preambles of claims 14, 21 and 23 were amended to traverse the rejections under 35 U.S.C. §112, first and second paragraphs. In the September 30 Communication, the examiner stated that the August 20 Amendment failed to fully respond to the rejection of claims 14-26 under 35 U.S.C. §112, first paragraph. During a separate telephonic interview, the examiner indicated to the undersigned that the Amendment was not fully responsive because it did not address the examiner's allegations that a method of treating wastewater, as opposed to a method of treating sludge, did meet the written description requirement.

Applicants submit an amendment herewith in regard to this rejection. Specifically, the claims are amended to recite a method of treating incoming wastewater that includes directing or delivering at least a portion of the incoming wastewater to an electroportation

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station or apparatus. Applicants further submit that the specification and drawings of this application, as well as the specification and drawings of the applications incorporated by reference in the present application, support the claims as amended. For example, the Figure accompanying the present application illustrates that after the incoming wastewater enters the system, a portion of the incoming wastewater is directed or delivered to an electroporation station (marked "PEF"), the wastewater eventually exiting the system as effluent and filter cake. Consequently, it is submitted that the claims, as amended, satisfy 35 U.S.C. 112.

B. The Section 103 Rejections

In the August 20 Amendment, applicants noted that the rejection based on U.S. Patent No. 6,491,820 to Held et al. relied on the passage at col. 10:42-11:46. Applicants further noted that the application that issued as Held et al. is a continuation-in-part of U.S. Application Serial No. 09/612,776, and that the present application also claims priority back to U.S. Application Serial No. 09/612,776. The Applicants further noted that the passage of Held et al. relied upon in the rejection is virtually identical to language found in the common '776 ancestor application, citing to col. 2:27-3:28 of U.S. Patent No. 6,395,176 that issued from the '776 ancestor application. Thus, applicants concluded, the 'prior art' teachings relied upon by the office action are not prior art at all, but are teachings found in the '776 ancestor application. The September 30 Communication did not suggest that the Amendment was not fully responsive in this regard, and applicants submit that this rejection should be withdrawn.

C. The Double Patenting Rejection

Along with the August 20 Amendment, applicants submitted a terminal disclaimer. The September 30 Communication did not suggest that the Amendment was not fully responsive in this regard, and applicants submit that this rejection should be withdrawn.

D. The Information Disclosure Statements

Along with the August 20 Amendment, applicants submitted a Supplemental Information Disclosure Statement. Apparently, the examiner has reviewed the Supplemental Information Disclosure Statement, for it was suggested in the September 30 Communication that that the reference to U.S. Patent No. 5,037,560 is erroneous. Applicants respectfully submit U.S. Patent No. 5,037,560 to Gayman, titled "Sludge Treatment Process", was

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correctly submitted (having been originally cited by the applicant to the Office in regard to U.S. Application No. 08/552,226, to which the present application claims priority), and request that the examiner review the reference.

In the August 20 Amendment, applicants noted that one of the references cited in the Information Disclosure Statement of July 12, 2004, Japanese Laid-Open Application No. 1-210100, had been cited against the claims of two Japanese counterparts of priority applications for the present case. Although the reference had not been made the subject of a rejection in regard to the present application, the applicants included a declaration of inventor Dr. Satya P. Chauhan regarding this reference along with the August 20 Amendment. According to the September 30 Communication, Attachments A and B noted as attached to the declaration are missing. Consequently, applicants submit herewith a copy of the Chauhan Declaration with Attachments A and B, as well as with a copy of the translation of the Japanese reference reviewed by the declarant, Attachment C.

III. Further Supplemental Information Disclosure Statement

Applicants note that they will be filing a further Supplemental Information Disclosure Statement in regard to the above-mentioned application, by express mail, in the next day or two. Applicants respectfully request that the examiner give these materials due consideration in regard to the present application, as the applicants will be submitting the fee payable under 37 C.F.R. 1.17(p) therewith.

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In summary, this Amendment is responsive to the July 9 Office Action and the September 30 Communication, and represents the complete response of applicants to rejections raised in the July 9 Office Action. Applicants respectfully request a telephonic interview in regard to this application to address any outstanding issues the examiner may have after this response.

Respectfully submitted,

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